

Functional Series 400: Personnel
ADS Chapter 413 - Civil Service Appointments and Employment

413.1	Authority
413.2	Objective
413.3	Responsibility
413.4	Definitions
413.5	POLICY
413.5.1	GENERAL PROVISION
E413.5.1	General Provision - N/A
413.5.2	RESTRICTIONS ON THE EMPLOYMENT OF RELATIVES
E413.5.2	Restrictions on the Employment of Relatives - N/A
413.5.3	EFFECTIVE DATE OF APPOINTMENT
E413.5.3	Effective Date of Appointment - N/A
413.5.4	CITIZENSHIP REQUIREMENT
E413.5.4	Citizenship Requirement - N/A
413.5.5	STATUTORY BAR TO APPOINTMENT OF PERSONS WHO FAIL TO REGISTER UNDER THE SELECTIVE SERVICE LAW
E413.5.5	Statutory Bar to Appointment of Persons Who Fail to Register under the Selective Service Law - N/A
413.5.6	PROHIBITION AGAINST POLITICAL RECOMMENDATIONS
E413.5.6	Prohibition Against Political Recommendations - N/A
413.5.7	SECURITY CLEARANCE REQUIREMENT
E413.5.7	Security Clearance Requirement - N/A
413.5.8	TYPES OF EMPLOYMENT
E413.5.8	Types of Employment - N/A
413.5.8a	VOLUNTEER SERVICE
E413.5.8a	Volunteer Service - N/A
413.5.8b	PROHIBITIONS ON THE USE OF THE STUDENT VOLUNTEER PROGRAM
E413.5.8b	Prohibitions on the Use of the Student Volunteer Program - N/A
413.5.8c	WRITTEN AGREEMENT
E413.5.8c	Written Agreement - N/A
413.5.8d	STUDENT ELIGIBILITY AND STATUS
E413.5.8d	Student Eligibility and Status - N/A
413.5.9	THE COMPETITIVE SERVICE AND COMPETITIVE STATUS
E413.5.9	The Competitive Service and Competitive Status - N/A
413.5.9a	CAREER AND CAREER-CONDITIONAL EMPLOYMENT SYSTEM
E413.5.9a	Career and Career-Conditional Employment System - N/A
413.5.10	PROBATIONARY PERIOD
E413.5.10	Probationary Period - N/A
413.5.10a	PROBATION ON INITIAL APPOINTMENT TO A COMPETITIVE POSITION
E413.5.10a	Probation on Initial Appointment to a Competitive Position
413.5.10b	PROBATION ON INITIAL APPOINTMENT TO A SUPERVISORY OR MANAGERIAL POSITION

E413.5.10b	Probation on Initial Appointment to a Supervisory or Managerial Position - N/A
413.5.10c	FAILURE TO COMPLETE THE PROBATIONARY PERIOD
E413.5.10c	Failure to Complete the Probationary Period - N/A
413.5.10d	APPEAL OF POSITION CHANGE TO NONSUPERVISORY OR NONMANAGERIAL
E413.5.10d	Appeal of Position Change to Nonsupervisory or Nonmanagerial - N/A
413.5.11	OTHER THAN FULL-TIME CAREER EMPLOYMENT (PART-TIME, SEASONAL, ON-CALL, AND INTERMITTENT)
E413.5.11	Other than Full-time Career Employment (Part-time, Seasonal, On-call, and Intermittent) - N/A
413.5.12	PART-TIME CAREER EMPLOYMENT OPPORTUNITIES
E413.5.12	Part-time Employment Opportunities - N/A
413.5.12a	CONVERTING FROM FULL-TIME EMPLOYMENT TO PART-TIME EMPLOYMENT
E413.5.12a	Converting from Full-Time Employment to Part-Time Employment - N/A
413.5.12b	CONVERTING FROM PART-TIME TO FULL-TIME EMPLOYMENT
E413.5.12b	Converting from Part-Time to Full-Time Employment - N/A
413.5.12c	WORKWEEK/SCHEDULE
E413.5.12c	Workweek/Schedule
413.5.12d	PAY
E413.5.12d	Pay - N/A
413.5.12e	SERVICE CREDIT
E413.5.12e	Service Credit - N/A
413.5.12f	TRAINING
E413.5.12f	Training - N/A
413.5.13	SEASONAL AND ON-CALL EMPLOYMENT
E413.5.13	Seasonal and On-Call Employment - N/A
413.5.14	INTERMITTENT EMPLOYMENT
E413.5.14	Intermittent Employment - N/A
413.5.15	TEMPORARY AND TERM APPOINTMENTS
E413.5.15	Temporary and Term Appointments - N/A
413.5.16	EXCEPTED SERVICE
E413.5.16	Excepted Service - N/A
413.5.16a	SCHEDULE A
E413.5.16a	Schedule A - N/A
413.5.16b	SCHEDULE B
E413.5.16b	Schedule B - N/A
413.5.16c	SCHEDULE C
E413.5.16c	Schedule C - N/A
413.5.17	ADMINISTRATIVELY DETERMINED (AD) PERSONNEL
E413.5.17	Administratively Determined (AD) Personnel
413.5.17a	POSITION, GRADE AND RATE OF PAY
E413.5.17a	Position, Grade and Rate of Pay - N/A
413.5.17b	POSITION MANAGEMENT

E413.5.17b Position Management - N/A
413.5.17c PERFORMANCE EVALUATION
E413.5.17c Performance Evaluation - N/A
413.5.17d SEPARATION OF AN AD EMPLOYEE
E413.5.17d Separation of an AD Employee
413.5.17e REINSTATEMENT RIGHTS FOLLOWING AD SERVICE
E413.5.17e Reinstatement Rights Following AD Service
413.5.18 EXECUTIVE PERSONNEL
E413.5.18 Executive Personnel - N/A
413.5.18a COVERED PERSONNEL
E413.5.18a Covered Personnel - N/A
413.5.18b EXECUTIVE LEVEL ASSESSMENT AND ASSIGNMENT
E413.5.18b Executive Level Assessment and Assignment
413.5.18c STATUTORY EXECUTIVE PERSONNEL
E413.5.18c Statutory Executive Personnel - N/A
413.5.19 EXPERTS AND CONSULTANTS
E413.5.19 Experts and Consultants
413.6 Supplementary Reference

Conditions of Appointment for AD Executive Personnel
Evaluation of Supervisory/Managerial Performance
Methods of Filling USAID/Washington Vacancies
Sample Waiver of Compensation for Experts and Consultants

413.7 Mandatory Reference

ADS 476
ADS 462
ADS 423
ADS 101

5 CFR Subchapter A, Parts 1-7 and 2.4, The Civil Service Rules
5 CFR 7.4
5 CFR 212
5 CFR 213
5 CFR 213.3101-3199
5 CFR 213.3201-3202
5 CFR 213.3301-3302
5 CFR 300, 302, 308 and 310
5 CFR 315.801-315.806
5 CFR 315.901-315.909
5 CFR 316, 330, 333, 338 and 340
5 CFR 531
5 CFR 550

5 CFR 610 and 630

29 CFR 1614

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5 CFR 2635

46 Comptroller General 337

Executive Orders 10450 and 11935

FSA of 1980 as amended

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Implementation Guidelines for New Job Share Program

P.L. 95-454

Section 301 of the Civil Service Reform Act of 1978

Section 625 (b) FAA 1961, as amended

5 USC 81

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18 USC 208

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31 USC 1342

5 USC 2301

22 USC 2384 and 2385

28 USC 2671-2680

5 USC 3109, 3110 and 3111

5 USC 3303, 3321, 3327, 3330, and 3401-3408

5 USC 5311-5316, 5362 and 5365

5 USC 5363

Functional Series 400: Personnel
ADS Chapter 413 - Civil Service Appointments and Employment

413.1 Authority

1. 5 USC 81, 2301, 3109, 3110, 3111, 3303, 3321, 3327, 3330, 3401-3408, 5311-5316, 5362, 5365
2. 5 CFR Subchapter A, Parts 1 - 7, 2.4, The Civil Service Rules
3. 5 CFR, 212, 213, 300, 302, 308, 310, 315, 316, 330, 333 338, 340, 550, 610, 630
4. 22 USC 2384 and 2385
5. 28 USC 2671-2680,
6. 29 CFR 1614
7. Sec. 624(a) and Sec. 625 (b) of the Foreign Assistance Act of 1961, as amended
8. Foreign Service Act of 1980, as amended
9. Executive Orders 10450 and 11935

413.2 Objective

This chapter sets forth the policies and essential procedures for the appointment and employment of the Agency's Civil Service (CS) employees.

413.3 Responsibility

- *
 1. The Administrator (A/AID) (**or designee**) is responsible for approving or disapproving all appointments, reassignments, compensation, class, and separation of executive personnel.
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 2. The Deputy Administrator (DA/AID) (**or designee**) is responsible for the following:
 - a. Consulting with Assistant Administrators (AAs) of Bureaus and Offices on executive personnel staffing requirements;
 - b. Examining Executive Personnel nominations, evaluating candidates' suitability for vacancies, and recommending candidates to the Administrator; and
 - c. Providing written notification to the Assistant Administrator for Management (AA/M) and Deputy Assistant Administrator for Human Resources (DAA/M/HR) of approval, subject to required clearances, or disapproval of Executive Personnel appointments.
 3. The Assistant Administrator for Management (AA/M), Bureau for

Management is responsible for the following:

- a. Recommending to the Agency Management Council for final approval, position ceilings for each fiscal year based on Operating Expense (OE) budget projections, historical positions ceilings and on board levels, and the R-4 and Bureau Budget Submission processes; and
 - b. Reviewing requests for changes in established position ceilings received from Bureaus and Offices for clearance and approval or referral to the Agency Management Council for final decision.
4. Bureau for Management, Office of Budget (M/B) is responsible for issuing approved fiscal year position and consultant/expert workday ceilings to all USAID Bureaus and Offices and clearing all requests for changes to established position ceilings.
5. The Deputy Assistant Administrator, Bureau for Management, Office of Human Resources (DAA/M/HR) is responsible for the following:
 - a. Consulting with DA/AID, AA/M, and AAs of Bureaus and Offices, or their designated representatives, on Executive Personnel staffing requirements and discussing prospective candidates; and
 - b. Giving final approval to return an employee to a non-supervisory or non-managerial position during the employee's probationary period and notifying the employee in writing of the reasons for the action.
6. The Bureau for Management, Office of Human Resources, Executive Management Staff (M/HR/EM) is responsible for the following:
 - a. Recruiting, evaluating qualifications and appointing all Senior Executive Service (SES) candidates. ADS 423 contains information on SES appointments. **(See ADS 423)**;
 - b. Making firm offers of appointment to SES, Schedule C, Presidential (PAS), and Administratively Determined (AD) candidates after the completion of all pre-appointment requirements;
 - c. Determining rates of pay for new appointees;
 - d. Maintaining continuing contact with the White House liaison for AD, Schedule C and non-career SES appointments and USAID/W

Bureaus and Offices to decide current and future executive level work force requirements;

e. Recruiting available candidates to fill executive level vacancies; i.e., promotion or reassignment; transfers from other U.S. agencies; details from State; or hiring from outside the U.S. Government;

f. Maintaining a list of qualified senior personnel for executive positions;

g. Referring candidates for counseling regarding eligibility for certain benefits;

h. Consulting with currently assigned executive level personnel to find out **their** preferences for future assignments;

i. Maintaining an up-to-date listing of all executive level positions;

j. Counseling newly assigned Executive Level and AD employees regarding the excepted service and other pertinent matters relating to their assignment; and

k. Advising the Bureau for Management, Office of Human Resources, Personnel Operations Division, M/HR/POD, of any changes in position status of all AD and CS senior level positions as these changes occur.

7. The Bureau for Management, Office of Human Resources, Personnel Operations Division (M/HR/POD) is responsible for the following:

a. Classifying positions;

b. Deciding, in consultation with Bureaus/Offices, methods of filling positions;

c. Advertising, establishing basic eligibility, verifying job relatedness of rating/ranking criteria and appointing personnel for USAID/W positions except SES, Schedule Cs, PAS (**Presidentially Appointed, Senate-confirmed**) and AD personnel;

d. Rendering final Agency decisions on suitability of candidates;

e. Making firm offers of appointment to candidates after the completion of all pre-appointment requirements;

- f. Deciding rates of pay for appointees;
- g. Establishing requirements for probationary periods;
- h. Providing guidance and assistance to Bureaus and Offices on the part-time, intermittent and seasonal employment programs;
- i. Counseling employees on impact to benefits due to changes in work schedules. Approving requests for changes in part-time employees' tours of duty;
- j. Administering probationary period plans for supervisory/managerial and newly appointed employees;
- k. Managing Stay-in-School, Student Educational Employment, Presidential Management Intern, and other student related programs; and
- l. Developing, maintaining and retiring civil service employees' official personnel and performance evaluation files.

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8. The Bureau for Management, Office of Human Resources, Policy, Planning and Information Management Division (M/HR/PPIM) is responsible for formulating and interpreting personnel policies and regulations relating to USAID's personnel systems for, Civil Service **(as well as Foreign Service and Foreign Service National) employees. Establishes guidelines governing the appointment and use of experts and consultants overseas and in USAID/W.**

9. The Assistant Administrators of Bureaus or Heads of Offices are responsible for the following:

- a. Consulting with the DA/AID, AA/M, and other AAs or their designated representatives, on Executive Personnel staffing requirements and discussing prospective candidates;
- b. Certifying to the accuracy of the conditions contained in Form AID 4-483, Request for Employment of Experts and Consultants; and
- c. Recommending reassignment/demotion/separation of a probationary employee when warranted.

10. Bureaus and Offices are responsible for the following:

- a. Ensuring the availability of funds and fiscal year work force ceilings for requested appointments;
- b. Submitting requests to exceed authorized ceiling levels when necessary;
- c. Reviewing positions as they become vacant to decide recruitment needs for the Bureau/Office;
- d. Deciding, in consultation with M/HR, employment mechanisms most appropriate for filling positions;
- e. Identifying positions and/or occupations suitable for permanent full or part-time, term or temporary, intermittent or student volunteer employment;
- f. Deciding, in consultation with internal staff, the need for expert or consultant positions in USAID/W and overseas; and
- g. Authorizing work schedule changes.

11. Administrative Management Staffs (AMSs) are responsible for the following:

- a. Submitting documentation to M/HR/POD for all Bureau/Office recruitment activity;
- b. Requesting M/HR/POD to **reappoint** or terminate expert or consultant appointments; and
- c. Coordinating supervisory/managerial and other probationary period requirements with supervisors and M/HR/POD.

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12. Supervisors are responsible for the following:

- a. Reporting recruitment needs to M/HR/POD, through Administrative Management Staff;
- b. Selecting candidates from among qualified candidates referred by M/HR/POD to fill vacant positions, subject to required clearances;
- c. Ensuring employees' **work** schedules **are** consistent with established USAID and higher authority guidelines;

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 - d. Initiating the proper documentation to employ, **reappoint** or terminate expert or consultant appointments;
 - e. Using the expert or consultant only for those duties described on the approved Form AID 4-483;
 - f. Controlling the number of days the expert or consultant works in any one service year;
 - g. Managing part-time employees' work hours, work schedules and overtime usage;
 - h. Reviewing the office's use of student volunteers to ensure compliance with regulatory and Agency requirements; and
 - i. Rating employees' progress and recommending demotion/reassignment/separation of unsuccessful probationary employees.
- 13. Overseas Missions are responsible for the following:
 - a. **Determining** the need for, and requesting the services of, experts and consultants through the appropriate USAID/W Bureau/Office;
 - b. Ensuring proper clearances, salary payments, travel and utilization of experts and consultants; and
 - c. Reporting the number of days and the dates an expert or consultant worked to M/HR/POD when the employee departs post.
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 - 14. The Office of the General Counsel, Assistant GC for Ethics and Administration, GC/EA, is responsible for reviewing the statements of employment and financial interests (**public and confidential financial disclosure statements**) for conformity to applicable laws and regulations as outlined in ADS 101. (**See ADS 101**)
 - 15. The Office of Security (SEC) is responsible for completing security investigations as prescribed in E. O. 10450 and ADS 101. (**See E.O. 10450 and ADS 101**)

413.4 Definitions (**See GLOSSARY**)

Administratively Determined (AD) Appointment
Appeal

Appointment, temporary limited
Appointment, term
Career
Career-conditional
Competitive service
Competitive status
Consultant
Excepted service
Executive personnel
Expert
Intermittent employment
* **Job Sharing**
Manager
Part-time career employment
Reemployment rights
Reinstatement
Schedules A, B, and **C**
Schedule A Position
Schedule B Position
Schedule C Position
Senior Executive Service (SES)
Student
Supervisor
Volunteer service

413.5 POLICY

The statements contained within the .5 section of this ADS chapter are the official Agency policies and corresponding essential procedures.

413.5.1 GENERAL PROVISION

The Agency shall follow all Federal laws and regulations in the management of its civilian workforce.

E413.5.1 General Provision - N/A

413.5.2 RESTRICTIONS ON THE EMPLOYMENT OF RELATIVES

* The Agency **and employees** shall adhere to all Federal requirements regarding employment of relatives, **including the laws and rules on nepotism and conflicts of interest.** (See Mandatory Reference, 5 CFR 310 and 5 USC 3110)

E413.5.2 Restrictions on **the** Employment of Relatives - N/A

413.5.3 EFFECTIVE DATE OF APPOINTMENT

An appointment becomes effective on the date that the appointee enters on duty and is available to perform Federal functions.

E413.5.3 Effective Date of Appointment - N/A

413.5.4 CITIZENSHIP REQUIREMENT

No person shall be given an appointment in the Civil Service (CS) unless the person is a citizen or national of the United States of America. (See Mandatory Reference, E. O. 11935, 5 CFR 7.4 and 5 CFR 338)

E413.5.4 Citizenship Requirement - N/A

413.5.5 STATUTORY BAR TO APPOINTMENT OF PERSONS WHO FAIL TO REGISTER UNDER THE SELECTIVE SERVICE LAW

The Agency shall adhere to the policies and essential procedures in 5 CFR 300, Subpart G. (See Mandatory Reference, 5 CFR 300, Subpart G)

E413.5.5 Statutory Bar to Appointment of Persons Who Fail to Register under the Selective Service Law - N/A

413.5.6 PROHIBITION AGAINST POLITICAL RECOMMENDATIONS

* An individual concerned in appointing an applicant in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant. (See Mandatory Reference, 5 USC 3303)

E413.5.6 Prohibition Against Political Recommendations - N/A

413.5.7 SECURITY CLEARANCE REQUIREMENT

Before appointment, candidates must meet Agency established security requirements as prescribed in Executive Order 10450. **(See Mandatory Reference, E.O. 10450 and ADS 101)**

E413.5.7 Security Clearance Requirement - N/A

413.5.8 TYPES OF EMPLOYMENT

The different types of human resource categories in the Agency discussed in the remainder of Section 5 **are** a guide to managers in defining the appropriate treatment of differing staff resources.

E413.5.8 Types of Employment - N/A

413.5.8a VOLUNTEER SERVICE

* The agency shall adhere to Section 301 of the Civil Service Reform Act of 1978, Public Law 95-454, 5 CFR 308, **31 USC 1342**, and 5 USC 3111. (See Mandatory Reference Section 301 of the Civil Service Reform Act of 1978, Public Law 95-454, 5 CFR 308, **31 USC 1342**, and 5 USC 3111)

E413.5.8a Volunteer Service - N/A

413.5.8b PROHIBITIONS ON THE USE OF THE STUDENT VOLUNTEER PROGRAM

The student volunteer service program must not be used in the following situations:

- 1) To displace any Agency employee or to staff a position that is a normal part of the Agency's work force;
- 2) When assigned duties are the same as those of students or contractors in a paid status or those being performed by direct-hire employees;
- 3) When it will adversely affect other Agency student employment programs, i.e., the summer employment program, the stay-in-school program and student educational employment programs authorized by 5 CFR 213.3202; (See 5 CFR 213.3202)
- 4) To imply that volunteer service ensures the student a future job with the Agency;
- 5) To perform duties other than to provide educational experience for the student, e.g., a student majoring in Economics must not be assigned only typing or messenger functions; and
- 6) When the student is a relative of person(s) having authority to make or recommend appointment to a position in the Agency.

E413.5.8b Prohibitions on the Use of the Student Volunteer Program - N/A

413.5.8c WRITTEN AGREEMENT

The student volunteer service program is conducted through written agreements between the Agency and the volunteer student, with the permission of the institution at which the student is enrolled.

The volunteer service agreement must specify the following:

- 1) The period of assignment, to be set at a length of time that best serves the needs of the requesting bureau/office and the Agency;
- 2) Scope of work;
- 3) Attendance and performance requirements guidelines; and
- 4) That the student volunteer may not be converted to employment by the Agency in a paid status under contractual arrangement within 30 days after completion of the volunteer period unless such action is approved by the Bureau for Management, Office of Human Resources, Personnel Operations Division (M/HR/POD). Employment on a paid status after termination is permitted if such employment is not contrary to any applicable law, rule, or regulation.

E413.5.8c Written Agreement - N/A

413.5.8d STUDENT ELIGIBILITY AND STATUS

Student volunteers

- 1) Must be at least 16 years old;
- 2) Are subject to a security investigation;
- 3) Are not considered Federal employees and are not eligible for any employee benefits (e.g., travel, subsistence expenses, quarters, or reimbursement or payment in kind); and
- 4) Are covered under the Federal Tort Claims Act and the Worker's Compensation Act. (See Mandatory Reference, 28 USC 2671 through 2680, and 5 USC 81)

E413.5.8d Student Eligibility and Status - N/A

413.5.9 THE COMPETITIVE SERVICE AND COMPETITIVE STATUS

The Agency shall adhere to the policies and essential procedures in 5 CFR 212. (See Mandatory Reference, 5 CFR 212)

E413.5.9 The Competitive Service and Competitive Status - N/A

413.5.9a CAREER AND CAREER-CONDITIONAL EMPLOYMENT SYSTEM

The Agency shall adhere to all Federal law and regulation regarding career and career-conditional employment. (See Mandatory Reference, 5 CFR 315, Subparts A-G)

E413.5.9a Career and Career-Conditional Employment System - N/A

413.5.10 PROBATIONARY PERIOD

All persons selected from registers of eligibles for career or career-conditional appointments and employees promoted, transferred, or otherwise assigned, for the first time, to supervisory or managerial positions shall be required to serve a probationary period. (See 5 CFR, 315 Subchapter A, 2.4).

The probation rules do not apply to employees in the Senior Executive Service (SES), Foreign Service (FS), Administratively Determined (AD) positions, or to other excepted service employees.

E413.5.10 Probationary Period - N/A

413.5.10a PROBATION ON INITIAL APPOINTMENT TO A COMPETITIVE POSITION

The Agency shall adhere to the policies and essential procedures in 5 CFR 315, Subpart H, Sections 315.801 through 315.806. (See Mandatory Reference, 5 CFR 315, Subpart H, Sections 315.801 through 315.806)

E413.5.10a Probation on Initial Appointment to a Competitive Position - N/A

413.5.10b PROBATION ON INITIAL APPOINTMENT TO A SUPERVISORY OR MANAGERIAL POSITION

The Agency shall adhere to the policies and essential procedures relating to probationary requirements for supervisors and managers in 5 CFR 315, Subpart I, Section 315.901 through 315.909. (See Mandatory Reference, 5 CFR 315, Subpart I, Sections 315.901 through 315.909)

Employees who convert from the Foreign Service or other excepted service appointments to competitive non-SES positions in USAID, shall complete

the probationary period. A probationary period is not required if the conversion is from a supervisory or managerial position comparable to or qualifying for the one for which the probationary period applies.

E413.5.10b Probation on Initial Appointment to a Supervisory or Managerial Position - N/A

413.5.10c FAILURE TO COMPLETE THE PROBATIONARY PERIOD

The Agency shall adhere to the policy and essential procedures in 5 CFR 315.907, 5 USC 5362 through 5363 and 5 CFR 531 for salary setting requirements for an employee returned to a nonsupervisory or nonmanagerial position for failure to complete the probationary period. (See Mandatory Reference, 5 CFR 315.907, 5 USC 5362 through 5363, 5 CFR 531)

E413.5.10c Failure to Complete the Probationary Period - N/A

413.5.10d APPEAL OF POSITION CHANGE TO NONSUPERVISORY OR NONMANAGERIAL

The Agency shall adhere to the policies and essential procedures in 5 CFR 315.908, 315.909 and 29 CFR 1614, if appropriate. (See Mandatory Reference, 5 CFR 315.908, 315.909 and 29 CFR 1614, if appropriate)

An Agency action to return an employee to a nonsupervisory or nonmanagerial position may be grievable under Agency procedures when:

- 1) The employee asserts that removal from the supervisory or managerial position was based upon other than a deficiency in supervisory or managerial skills; or
- 2) The employee believes that they have served in a former qualifying or comparable supervisory or managerial position and wishes to contest the Agency's determination of a probationary requirement in a new position.

E413.5.10d Appeal of Position Change to Nonsupervisory or Nonmanagerial - N/A

413.5.11 OTHER THAN FULL-TIME CAREER EMPLOYMENT (PART-TIME, SEASONAL, ON-CALL, AND INTERMITTENT)

The Agency shall adhere to the policies and essential procedures in 5 CFR 340, Subparts A, B and D, 5 USC 3401-3408 and 5 CFR 630. (See Mandatory Reference, 5 CFR 340, Subparts A, B and D, 5 USC 3401-3408)

and 5 CFR 630)

E413.5.11 Other than Full-time Career Employment (Part-time, Seasonal, On-call, and Intermittent) - **N/A**

413.5.12 PART-TIME CAREER EMPLOYMENT OPPORTUNITIES

* The Agency shall provide part-time employment opportunities in positions through GS-15 or equivalent subject to Agency resources and needs.
Management has the option to establish job sharing opportunities, offering part-time work schedules in positions where full-time coverage is needed. (See Mandatory Reference, Implementation Guidelines for New Job Share Program)

E413.5.12 Part-time Employment Opportunities - N/A

413.5.12a CONVERTING FROM FULL-TIME EMPLOYMENT TO PART-TIME EMPLOYMENT

A full-time permanent employee may request to be converted to part-time duty. Conversion is contingent on the Agency's ability to accomplish the following:

- 1) Change the employee's position to part-time taking into account such factors as whether the regular or peak workloads lend themselves to a part-time schedule, adaptability of the work to be performed on a part-time basis, necessity of having full-time coverage for the position, and benefits to the employee; or
- 2) Reassign or promote the employee to a previously established part-time position.

E413.5.12a Converting from Full-Time Employment to Part-Time Employment - N/A

413.5.12b CONVERTING FROM PART-TIME TO FULL-TIME EMPLOYMENT

If a full-time position of equal or lower grade is vacant and the part-time employee meets the basic job requirements, the employee may be placed in the job noncompetitively.

If the position being sought results in a promotion or has promotion potential, the part-time employee must compete with other applicants according to the requirements of the Agency's Promotion and Internal Placement Program.

E413.5.12b Converting from Part-Time to Full-Time Employment - N/A

413.5.12c WORKWEEK/SCHEDULE

A part-time employee must work no more than 32 hours per week and no less than 16 hours per week.

The Agency may temporarily increase an employee's hours of duty above the number of hours scheduled, including above the 32-hour limit. Increases shall be held to emergency or extremely heavy workload situations that are temporary in nature or for training opportunities.

An increase in the tour of duty above 32 hours per week must not exceed two consecutive pay periods.

A part-time employee must not work on a non-work day to make up for an absence on a scheduled workday.

E413.5.12c Workweek/Schedule

A change in a part-time employee's workweek/schedule exceeding two consecutive pay periods requires an SF-50, Notification of Personnel Action, documentation.

The part-time employee's scheduled workweek must be stated on the SF-50 in terms of actual days of the week and number of hours each day (not to exceed eight) to be worked, e.g., 24 hours, Monday through Thursday, six hours per day.

413.5.12d PAY

* The Agency shall adhere to the policies and essential procedures in 5 CFR 550. (See Mandatory Reference, 5 CFR 550)

A part-time employee is not entitled to Sunday premium pay. (See Mandatory Reference, 46 Comptroller General 337)

* If a part-time employee is relieved or prevented from working on a day within the employee's scheduled tour of duty that is designated as a holiday by Federal statute or Executive Order, the employee is entitled to basic pay with respect to the holiday for the number of hours the employee is scheduled to work on that day, not to exceed eight hours. When a holiday falls on a nonworkday of a part-time employee, the employee is not entitled to an in-lieu-of day for that holiday. (See Mandatory Reference 5, CFR 610, Subpart D, Section 610.405)

E413.5.12d Pay - N/A

413.5.12e SERVICE CREDIT

A part-time employee receives a full year of service credit for each calendar year worked (whatever the schedule) for the purposes of computing dates for the following:

- 1) Retirement eligibility;
- 2) Career tenure;
- 3) Completion of a probationary period;
- 4) Within-grade increases;
- 5) Change in leave accrual category; and
- 6) Time-in-grade restrictions on advancement.

Qualifications: An employee receives credit for part-time work experience on a pro rata basis. If an employee worked more than the documented scheduled tour of duty, the employee receives the service credit when the employee provides documentation of the additional time.

E413.5.12e Service Credit - N/A

413.5.12f TRAINING

Part-time employees are eligible for training opportunities on the same basis as full-time employees.

An employee may exceed their regularly scheduled hours to participate in a training program.

E413.5.12f Training - N/A

413.5.13 SEASONAL AND ON-CALL EMPLOYMENT

The Agency shall adhere to the policy and essential procedures in 5 CFR 340, Subpart D. (See Mandatory Reference, 5 CFR 340, Subpart D.)

E413.5.13 Seasonal and On-Call Employment - N/A

413.5.14 INTERMITTENT EMPLOYMENT

The Agency shall adhere to the policy and essential procedures in 5 CFR 340, Subpart D (See Mandatory Reference, 5 CFR 340, Subpart D).

E413.5.14 Intermittent Employment - N/A

413.5.15 TEMPORARY AND TERM APPOINTMENTS

The Agency shall adhere to the policies and essential procedures in 5 CFR 316, Subparts B-D, F and G, 330, 333, and 5 USC 3327 and 3330. (See Mandatory Reference, 5 CFR 316, Subparts B-D, F and G, 330, 333, 5 USC 3327 and 3330).

E413.5.15 Temporary and Term Appointments - N/A

413.5.16 EXCEPTED SERVICE

The Agency **shall** adhere to 5 CFR 213 and 5 CFR 302. (See Mandatory Reference, 5 CFR 213 and 5 CFR 302).

E413.5.16 Excepted Service - N/A

413.5.16a SCHEDULE A

The Agency **shall** adhere to the policies and essential procedures in 5 CFR 213.3101 through 3199. (See Mandatory Reference, 5 CFR 213.3101 through 3199)

E413.5.16a Schedule A - N/A

413.5.16b SCHEDULE B

The Agency **shall** adhere to the policies and essential procedures in 5 CFR 213.3201 through 213.3202. (See Mandatory Reference, 5 CFR 213.3201 through 213.3202)

E413.5.16b Schedule B - N/A

413.5.16c SCHEDULE C

The Agency **shall** adhere to the policies and essential procedures in 5 CFR 213.3301 through 213.3302. (See Mandatory Reference, 5 CFR 213.3301 through 213.3302)

E413.5.16c Schedule C - N/A

413.5.17 ADMINISTRATIVELY DETERMINED (AD) PERSONNEL

* The Agency **shall** adhere to the policies and essential procedures in Section 625(b) of the Foreign Assistance Act (**FAA**) of 1961, as amended and 22

USC 2385 (b). (See Mandatory Reference, Section **625(b) of FAA of 1961** and 22 USC 2385)

E413.5.17 Administratively Determined (AD) Personnel

The head of the Bureau or Office, or designee, in which the proposed position is located forwards, through the DAA/M/HR, to the Administrator, or designee, the request for appointment of a candidate to an Administratively Determined (AD) position.

Each request for appointment contains a description of the proposed position on a Position Description Form (Optional Form-8), a completed Personal Qualifications Statement (OF-612) of the proposed candidate and a statement justifying the need for the AD appointment.

* The DAA/M/HR evaluates the request, secures appropriate clearances, and recommends grade and rate of pay to the Administrator, or designee, who makes the final decision on grade, rate of pay, and appointment. **AD candidates are not under the Office of Personnel Management's (OPM's) jurisdiction. However, the Agency uses comparable criteria (SES criteria) at the discretion of the Administrator (A/AID), or designee, in its selection of AD executives. Congress has fixed the maximum number of AD employees allowed in the Agency at 110 AD positions.**

* **AD employees are eligible to participate in all the benefit programs applicable to CS employees. They**

a) **Accrue annual and sick leave under title 5 USC;**

b) **May be promoted if appointed to a higher graded position. Promotion actions must be conducted according to the procedures for initial appointment.**

413.5.17a POSITION, GRADE, AND RATE OF PAY

AD position grades are normally decided by the duties and responsibilities assigned, using standards applicable to General Schedule positions or equivalent standards.

The Bureau for Management, Office of Human Resources, Executive Management Staff (M/HR/EM) fixes the initial rate of pay at the first step of the AD grade of the position, unless the qualifications and/or the candidate's salary history warrant a higher step.

AD personnel are eligible to receive within grade salary increases and quality increases.

E413.5.17a Position, Grade and Rate of Pay - N/A

413.5.17b POSITION MANAGEMENT

An AD position may be committed only with prior approval of the Deputy Administrator or Administrator.

An AD position is assigned only to the incumbent. When vacated, the Agency examines its needs to retain the AD position.

E413.5.17b Position Management - N/A

413.5.17c PERFORMANCE EVALUATION

AD employees are evaluated in the same manner as career and career-conditional CS employees. **(See ADS 462)**

E413.5.17c Performance Evaluation - N/A

413.5.17d SEPARATION OF AN AD EMPLOYEE

* A person appointed to an AD position **at any level** serves at the discretion of the Administrator and may be terminated **at** any time.

An AD employee is given a 30-calendar day notice before termination of appointment. The notice period may be shortened, but never will the employee receive less than 10-calendar days notice. An employee who has statutory reinstatement rights is given a 45-calendar day notice and informed of such rights.

An AD employee is not eligible for severance pay upon termination.

E413.5.17d Separation of an AD Employee

An AD appointment shall be terminated when it is decided that the services of the AD employee are no longer required. The DAA/M/HR, after consultation with the Administrator, sets the termination date.

M/HR/EM prepares the letter notifying the employee that the AD appointment will be terminated. The letter contains the following:

- 1) The proposed termination date of the AD appointment;
- 2) Information concerning unemployment compensation; and
- 3) Information concerning reinstatement rights, if any.

413.5.17e REINSTATEMENT RIGHTS FOLLOWING AD SERVICE

- * Upon separation from an AD appointment for any reason other than misconduct or delinquency, the employee may be entitled to reinstatement to the position occupied at the time of appointment, or to a position of comparable grade and **salary**, provided the former position was one of the following:
 - 1) In the competitive service under a career or career-conditional appointment;
- *
 - 2) In the excepted service under an appointment without a specific time limitation; **or**
 - 3) Under an appointment or assignment made in accordance with authority contained in the FS Act of 1980, as amended. (See Mandatory Reference, FSA of 1980, as amended)

E413.5.17e Reinstatement Rights Following AD Service

- * **AD employees at all levels may be eligible for reinstatement rights to their former agency.**
- * Unless an arrangement is made for reinstatement without a break in service, an employee who wishes to exercise reinstatement rights must apply directly to their parent agency (or to M/HR/POD when USAID is the re-employing office), in writing, no later than 30 calendar days after the employee's AD appointment.
- * Parent agencies reinstate eligible applicants when possible after receipt of the application. In any event, such applicants are restored within 30 calendar days after receipt of the application, or upon termination of the AD appointment, whichever is later.

When USAID/W is the re-employing office, M/HR/POD notifies the employee promptly on receipt of the application if the employee is considered ineligible for reemployment. The notice is in writing and includes a statement of the basis for such determination and of the employee's right to appeal.

413.5.18 EXECUTIVE PERSONNEL

The Agency shall adhere to the policies and essential procedures in 5 USC 5311 through 5316, and 22 USC 2384 and 2385 (c). (See Mandatory Reference, 5 USC 5311 through 5316, and 22 USC 2384 and 2385 (c)).

E413.5.18 Executive Personnel - N/A

413.5.18a COVERED PERSONNEL

* Executive personnel are those employees who are appointed to executive positions under the Foreign Assistance Act of 1961, as amended, **including Presidentially Appointed, Senate-confirmed (PAS) positions**. Senior Executive Service (SES) **personnel** (career and non-career) are covered in ADS 423. **(See ADS 423)**

FS Officers of the Department of State may be appointed or detailed to USAID to fill any executive level position. The employee's status as a FS Officer of the Department of **State** shall not be lost by virtue of such an assignment to USAID.

E413.5.18a Covered Personnel - N/A

413.5.18b EXECUTIVE LEVEL ASSESSMENT AND ASSIGNMENT

Only persons of acknowledged executive skills are appointed to executive level positions. The assessment of a candidate's qualifications and the selection is made before the clearance process.

The appointment is effective on the date the appointee enters on duty and is available to perform a Federal function. Candidates for Executive Personnel assignments may be recruited from within or outside the Federal government.

* Statutory officers (**Presidential Appointees**) are exempt **from** the competitive requirements of the Office of Personnel Management (OPM). **The President nominates all Presidential Appointees and their appointments are made with the advice and consent of the Senate.** The Agency may have only 12 Presidential Appointees, including the Administrator, and at least four of these must be Assistant Administrators for Geographic Bureaus.

*E413.5.18b Executive Level Assessment and Assignment

Prior to appointment, candidates must read and sign the "Conditions of Appointment for AD Executive Personnel." **(See Supplementary Reference, Conditions of Appointment for AD Executive Personnel).**

413.5.18c STATUTORY EXECUTIVE PERSONNEL

As employees of the Federal government, executives may participate in most of the benefit programs available to other Federal employees (e.g., life and health insurance and the CS or FS retirement system). **(See ADS 476)**

Statutory executives are paid under the Executive Pay Schedule, at Level I, II, III, IV and V depending on the executive's position. The Administrator is Level II, the Deputy Administrator is Level III, all Assistant Administrators and the Inspector General are Level IV and the General Counsel is Level V.

Statutory executives are exempted from the leave laws by 5 USC 6301, and as such do not earn or accrue leave under the normal formula. They are, however, granted leave of absence with pay. Leave of absence is the informal leave system not covered by title 5 of the United States Code, but comparable to the annual and sick leave benefits of other Federal employees. Statutory executives may take leave at their discretion but shall inform their superiors of any absences.

Statutory executives are not given official performance ratings.

- * **The President may terminate the appointments of all Presidential employees with minimal notice if their services are no longer required. These employees do not have statutory re-employment rights back to their former agency.**

*E413.5.18c Statutory Executive Personnel - N/A

***413.5.19 EXPERTS AND CONSULTANTS**

- * **The Agency shall adhere to the policies in 5 USC 3109, 5 CFR 304 and the additional requirements outlined below. (See Mandatory References, 5 USC 3109 and 5 CFR 304)**

- *
 - a) **Experts and consultants are appointed or may volunteer to provide specialized advice and services involving Agency projects, policies, or operating functions when such advice and services are not readily available in USAID or from other Federal agencies, or when an outside point of view is needed.**

- * **b) Experts and consultants shall be employed on either an intermittent or temporary appointment. They are not employed to fill what are essentially continuing positions.**
- * **c) A retired USAID employee shall not be employed or begin work as an expert or consultant until after the 60-day period following retirement. Any exception to this requirement must be approved by the DAA/M/HR or designee.**
- * **d) USAID retirees shall not be employed as experts or consultants if a substantial portion of the proposed duties is to evaluate, advise on, or carry out functions on which they worked before retirement.**

***E413.5.19 Experts and Consultants**

- * **USAID shall employ experts and/or consultants on either temporary or intermittent appointments.**
- * **a) Types of appointments: Qualified experts or consultants may be appointed to either intermittent or temporary employment. Such appointments are excepted from competition, position classification, and the General Schedule pay rates.**
- * **b) Time limits for appointments: Experts or consultants employed on an intermittent appointment may be appointed without time limit or for any period determined by the Agency. An intermittent work schedule is appropriate when the nature of the work is sporadic and unpredictable so that a work schedule cannot be regularly scheduled in advance. All other experts and consultants shall receive temporary appointments not to exceed one year.**
- * **c) Ceiling allocations: Workday ceilings for experts and consultants shall be allocated each fiscal year (FY) by the Bureau for Management, Office of Budget (M/B) to each organization. This workday ceiling is the cumulative number of days that all experts or consultants within an organization can work in a fiscal year. Position ceilings shall be reduced by 1 for every 260 workdays (1 work year) or significant portion thereof.**
- * **d) Reappointments: An expert or consultant who works on**

a part-time or intermittent work schedule may be reappointed to perform substantially the same duties in accordance with one of the following options. USAID shall determine which option will be used prior to any reappointment action. For experts and consultants appointed without compensation, option 1 shall be used.

- *
 - 1. **Option 1 - Annual service.** USAID has the option to reappoint an expert or consultant, with no limit on the number of reappointments, as long as the individual is paid for no more than 6 months (130 days OR 1040 hours) of work.
- *
 - 2. **Option 2 - Cumulative earnings.** Each expert or consultant shall have a lifetime limit of twice the maximum annual rate payable under the annualized basic pay limitations.
- *
 - e) **Determining rate of pay:** The appropriate rate of basic pay, either on an hourly or daily basis, shall be set based on the level and difficulty of the work to be performed; the qualifications of the expert or consultant; the pay rates of comparable individuals performing similar work in Federal or non-Federal sectors; and the availability of qualified candidates. An expert or consultant shall not be paid for any biweekly pay period an aggregate amount of pay exceeding the GS-15 step 10 under the General Schedule.
- *
 - f) **Pay and leave administration:** Experts and consultants paid on a daily rate basis are not entitled to overtime pay; those paid on an hourly basis qualify for premium pay. Those experts and consultants who are on a temporary appointment with a regularly scheduled work schedule, whether part-time or full-time, are eligible to earn sick and annual leave. Those with an intermittent work schedule do not earn any kind of leave and are not entitled to holiday pay.
- *
 - g) **Procedures for requesting an expert or consultant:** If the requested workdays are within the authorized FY allocation, Bureaus/Offices shall submit to their Administrative Management Staff (AMS) the Request for Employment of Consultant or Expert form AID-4-483 (7-99) and an SF-52 (Request for Personnel Action) for approval and processing

through M/HR/POD. If the requested workdays exceed the authorized FY allocation, the following procedures shall be followed:

- * 1. Bureau/Office forwards a memorandum to the AA/M through M/B requesting additional ceiling. This memorandum shall include the number of additional workdays being sought and the proposed dates of employment.**
- * 2. M/B reviews and recommends approval or disapproval subject to Agency-wide ceiling availability. Approved requests involving periods of service which overlap FYs will be taken into account in the annual ceiling approval process.**
- * 3. Once the additional ceiling has been approved, the Bureau/Office shall submit form AID-4-483 and an SF-52 to M/HR/POD for processing and a copy of the ceiling approval.**

413.6 Supplementary Reference

Conditions of Appointment for AD Executive Personnel
Evaluation of Supervisory/Managerial Performance
Methods of Filling USAID/Washington Vacancies
Sample Waiver of Compensation for Experts and Consultants

413.7 Mandatory References

ADS 476
ADS 462
ADS 423
ADS 101

5 CFR Subchapter A, Parts 1-7 and 2.4, The Civil Service Rules
5 CFR 7.4
5 CFR 212
5 CFR 213
5 CFR 213.3101-3199
5 CFR 213.3201-3202
5 CFR 213.3301-3302
5 CFR 300, 302, 308 and 310
5 CFR 315.801-315.806

5 CFR 315.901-315.909
5 CFR 316, 330, 333, 338 and 340
5 CFR 531
5 CFR 550
5 CFR 610 and 630
29 CFR 1614
* **5 CFR 2635**

46 Comptroller General 337

Executive Orders 10450 and 11935

FSA of 1980 as amended

* **Implementation Guidelines for New Job Share Program**

P.L. 95-454

Section 301 of the Civil Service Reform Act of 1978

Section 625 (b) FAA 1961, as amended

* 5 USC 81
* **18 USC 208**
* **31 USC 1342**
5 USC 2301
22 USC 2384 and 2385
28 USC 2671-2680
5 USC 3109, 3110 and 3111
5 USC 3303, 3321, 3327, 3330, and 3401-3408
5 USC 5311-5316, 5362 and 5365
5 USC 5363

ads17/413

Glossary Terms for 413

Administratively Determined (AD) Appointment

An appointment action under which personnel may be appointed, compensated, and removed by the Administrator without regard to the provisions of any other law. (Chapter 413)

Appeal

A request by an employee for review of an agency action by an outside agency. The right to such review is provided by law or regulation and may include an adversary-type hearing and a written decision in which a finding of facts is made and applicable law, Executive Order and regulations are applied. (Chapter 413)

Appointment, temporary limited

Non-permanent appointment of an employee hired for a specified time of one year or less, or for seasonal or intermittent positions. (Chapter 413)

Appointment, term

Nonpermanent appointment of an employee hired on a project expected to last over one year, but less than four years. (Chapter 413)

Career

Tenure of a permanent employee in the competitive service who has completed three years of substantially continuous creditable Federal service. (Chapter 413)

Career-conditional

Tenure of a permanent employee in the competitive service who has not completed three years of substantially continuous Federal service. (Chapter 413)

Competitive service

Federal positions normally filled through open competitive examination under civil service rules and regulations. (Chapter 413)

Competitive status

Basic eligibility of a person to be selected to fill a position in the competitive service without open competitive examination. Competitive status may be acquired by career-conditional or career appointment through open competitive examination, or may be granted by statute, executive order, or civil service rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated, or demoted subject to the conditions prescribed by civil service rules and regulations. (Chapter 413)

Consultant

A person serving as an advisor to an officer or instrumentality of the Government, as distinguished from an officer or employee carrying out an agency's duties and responsibilities. Ordinarily, consultants are expert in the field in which they advise, but need not be specialists. (Chapter 413)

Excepted service

Consists of those civil service positions that are not in the competitive service. The Excepted Service includes all positions in the executive branch of the Federal Government that are specifically excepted from the competitive service pursuant to statute, by the

President or by the Office of Personnel Management (OPM) under Section 6.1 of Civil Service Rule VI or Section 9.20 of Civil Service Rule IX.
(Chapter 412)

Executive personnel

Employees who are appointed to USAID/W executive positions under the Foreign Assistant Act (FAA) of 1961. These executives are identified as either statutory officers who are appointed by the advice and consent of the Senate, or individuals serving within the AD Senior Level (SL) pay band. (Chapter 413)

Expert

A person with excellent qualifications and a high degree of attainment in a professional, scientific, technical, or other field. The expert's knowledge and mastery of the principles, practices, problems, methods, and techniques of the field of activity, or a specialized area in the field, are clearly superior to those usually possessed by competent persons in that activity. (Chapter 413)

Intermittent employment

The non-full-time employment of an individual serving under a competitive or excepted service appointment in tenure group I or II without a regularly scheduled tour of duty.
(Chapter 413)

Job Sharing

A form of part-time employment in which the schedules of two part-time employees are arranged to cover the duties of a single full-time position. Job sharers are subject to the same personnel rules as other part-time employees. (Chapter 413)

Manager

A manager directs the work of an organization, is held accountable for the success of specific line or staff programs, monitors the progress of the organization toward goals and periodically makes adjustments.
(Chapter 413)

Part-time career employment

The employment of an individual serving under an excepted or competitive service appointment in tenure group I or II under a part-time work schedule of 16-32 hours per week. (Chapter 413)

Reemployment rights

Right of an employee to return to an agency after detail, transfer, or appointment to (1) another Federal agency during an emergency; (2) an international organization; or other statutorily covered employment, e.g., the Peace Corps. (Chapter 413)

Reinstatement

Noncompetitive reemployment in the competitive service based on previous service under

a career or career-conditional appointment.
(Chapter 413)

Schedule A Position

Positions other than those of a confidential or policy-determining character for which it is impracticable to examine. (Chapter 413)

Schedule B Position

Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination. (Chapter 413)

Schedule C Position

Positions of a confidential or policy-determining character.
(Chapter 413)

Schedules A, B, and C

Categories of positions excepted from the competitive service by regulation.
(Chapter 413)

Senior Executive Service (SES)

A separate personnel system for persons who set policy and administer programs at the top levels of the Government (equivalent to GS-16 through Executive Level IV). (Chapter 413)

Student

An individual enrolled not less than halftime in an accredited high school, trade school, technical or vocational institute, junior college, college, university, or other accredited educational institution. (Chapter 413)

Supervisor

A supervisor is one who gets work done through others with accountability to agency management for the quantity and quality of the work done. The supervisor has responsibility for planning, organizing and reviewing work; administering personnel matters; and dealing effectively with employees and union representatives about employee-management concerns. (Chapter 413)

Volunteer service

Service performed without compensation by a full or half-time student, including graduate student, with the written permission of the institution at which the student is enrolled.
(Chapter 413)